

MISSOURI DEPARTMENT OF MENTAL HEALTH



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
8.060

Dorn Schuffman, Department Director

CHAPTER Regulatory Compliance	SUBCHAPTER HIPAA Regulations	EFFECTIVE DATE June 1, 2003	NUMBER OF PAGES 3	PAGE NUMBER 1 of 3
SUBJECT The Provision of an Accounting of Disclosures of Protected Health Information to Consumers		AUTHORITY Section 630.050 RSMo		History See Below
PERSON RESPONSIBLE Deputy Director, Office of Quality Management			SUNSET DATE July 1, 2006	

PURPOSE: It is the policy of the Missouri Department of Mental Health (DMH) and this facility to abide by the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-191, standards for privacy of individually identifiable health information. A consumer has the right to receive a written accounting of disclosures of their protected health information made by the Central Office and/or this facility in the six years prior to the date of which the accounting is requested. (45 CFR § 164.528). A consumer may request an accounting of a period of time less than six years. Beginning on April 14, 2003 a consumer is only entitled to request an accounting of disclosures from April 14, 2003 to the current date. After April 14, 2009 a consumer is entitled to request a full six years worth of disclosures.

APPLICATION: The Department of Mental Health, its facilities and workforce.

(1) Definitions

(A) Consumer: any individual who has received or is receiving services from a Department of Mental Health state-operated facility.

(B) Disclosure is defined as, "the release, transfer, provision of access to, or divulging in any other manner of information outside the entity which holds the information." This includes disclosures to or by business associates of the covered entity.

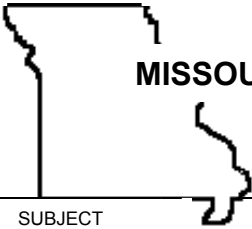
(C) Individually Identifiable Health Information: any information, including demographic information, collected from an individual that -

1. is created or received by a healthcare provider, health plan, employer, or healthcare clearinghouse; and
2. related to the past, present, or future physical or mental health or condition of an individual; the provision of healthcare to an individual; or the past, present, or future payment for the provision of healthcare to an individual, and
 - a. identifies the individual, or
 - b. with respect to which, there is reasonable basis to believe that the information can be used to identify the individual.

(D) Protected Health Information (PHI) is defined as, "individually identifiable health information that is (i) transmitted by electronic media; (ii) maintained in any medium described in the definition of electronic media; or (iii) transmitted or maintained in any other form or medium"

(2) Procedures

(A) All disclosures of PHI need to be accounted for upon the request of the individual. This is not limited to hard copy information but any manner of



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communication that discloses information, **including verbal** release. However, the following list of exceptions to this requirement do **not** require tracking or need to be accounted for upon the request of the individual:

1. Disclosures made for treatment, payment, and healthcare operation purposes as set out in 45 CFR §164.502.
2. Disclosures made to the consumer, or to the legal guardian, personal representative, or if a minor, then to the parent. (45 CFR §164.502)
3. Disclosures made for facility directory purposes, if utilized (45 CFR §164.510) (Please note that no DMH state-operated facility will utilize a facility directory as defined under HIPAA).
4. Disclosures made for national security or intelligence purposes. (45 CFR §164.512 (k)(5))
5. Disclosures made to correctional institutions or law enforcement officials. (45 CFR §164.512(k)(5)).
6. Disclosure made prior to the date of compliance with the privacy standards, meaning prior to April 14, 2003.
7. There are **further exceptions** for disclosures to health oversight agencies (see section 164.528(a)(2)(i) et seq.). Please contact the facility privacy officer or the Central Office privacy officer should this situation arise.

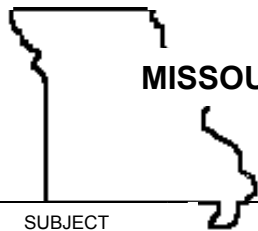
(3) Central Office Privacy Officer and each facility Privacy Officer shall assure that a mechanism is in place which tracks disclosure of both written and verbal protected health information. One format shall be utilized for all facilities and for Central Office.

(4) Central Office and each facility will include the following required Content in the Accounting of Disclosures.

- (A) The name and Identification number of the consumer whose PHI was disclosed.
- (B) Date of Disclosure
- (C) Name and address, if known, of the entity or person who received the PHI
- (D) Brief description of the PHI disclosed
- (E) Brief statement of purpose that reasonably informs the consumer what the purpose was for the disclosure, or provide the consumer with a copy of the authorization, or provide the consumer with a copy of the written request for disclosure.

(5) If multiple disclosures are made to the same entity or person for the same reason, it is necessary to document items (4) (A-D) for each disclosure.

(6) The consumer (or legal guardian) must make a written request for an accounting of disclosures to the DMH Central Office Privacy Officer, or designee, **or** the facility Privacy Officer, or designee, (whichever is applicable). The request shall be on the



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DMH Form as attached to this DOR. Staff may assist the consumer in completing the form if requested to do so.

(7) The DMH Central Office and facilities have 60 days after receipt of the request for such an accounting to act on that request for an accounting of disclosure. If the facility has disclosed information to a business associate regarding the consumer requesting the accounting, then the facility through its Privacy Officer or designee must request an accounting of disclosures of that consumer's information from that business associate, who has 20 calendar days to provide the accounting. The facility may request one 30-day extension, which is allowed, but the consumer must be informed in writing:

- (A) of the delay;
- (B) the reason for the delay,
- (C) the date the accounting will be provided, and
- (D) such notification to the consumer or person requesting the accounting of disclosures of any delay must take place within the 60 day timeframe.

(8) The DMH Central Office or facilities must provide the first accounting of disclosures free of charge in any 12-month period. Any subsequent request can be charged based on Missouri Statute (RSMo Section 191.227). Before charging a fee, the DMH Central Office or facility must inform the consumer and allow them the opportunity to withdraw or modify their request to avoid or reduce the fee. No handling fee is allowed.

(9) The DMH Central Office or facilities must retain a copy of the written accounting that is provided to the consumer in the consumer's medical record.

(10) REVIEW PROCESS: The Central Office Privacy Officer will collect information from the facility Privacy Officers during the month of April each year beginning in 2004 for the purpose of providing feedback to the Deputy Director, Office of Quality Management and to the Executive Team to determine the requests for accounting of disclosures.

(11) LOCAL POLICIES: There shall be no facility policies pertaining to this topic. The Department Operating Regulation shall control.

(12) SANCTIONS: Failure of staff to comply or assure compliance with the DOR may result in disciplinary action, including dismissal.

History: Original DOR effective January 1, 2003. Final DOR effective June 1, 2003.

**STATE OF MISSOURI****DEPARTMENT OF MENTAL HEALTH
REQUEST FOR ACCOUNTING OF DISCLOSURES OF CONSUMER
PROTECTED HEALTH INFORMATION**

Consumer Name and Date of Birth and SSN:

Statewide ID/Local Facility ID

Consumer Address: Street number, Street name, City, State, Zip Code

Please specify the time period for which you are requesting the accounting of disclosures:

This is the first request for an accounting of disclosures: ____yes ____no. IF NO,

I agree to pay costs associated with this request for an accounting of disclosures

Yes ☐ No ☐

(The first request in a 12 month rolling period is free of charge. Charges accrue for more than one request within that 12 month period).

Please indicate the consumer, parent of a minor, or any legal guardian or personal representative who is requesting the accounting of disclosures

Individual's Name

Relationship to Consumer

Signature of Consumer or Legal Representative

Date

Missouri Department of Mental Health Use Only

Date Received

Accounting has been: ☐ granted

Copy provided to consumer on _____(date)

Letter written to consumer on _____(date)

Name and Title of Staff Member processing request:

Date the Accounting of Disclosures Provided:

Signature of Privacy Officer or designee

Date